

Before the  
Federal Communications Commission  
Washington, D.C. 20554

2001 OCT -9 A 11: 16

In the Matter of

Amendment of Section 73.606(b),  
Table of Allotments,  
TV Broadcast Stations.  
(International Falls and Chisholm, Minnesota)

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MM Docket No. 01-87/  
RM-10092

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REPORT AND ORDER  
(Proceeding Terminated)

Adopted: September 26, 2001

Released: October 5, 2001

By the Chief, Allocations Branch:

1. Before the Allocations Branch for consideration is the Notice of Proposed Rule Making ("Notice"), 16 FCC Rcd 7815 (2001), issued in response to a petition filed on behalf of Channel 11, License, Inc. ("petitioner"), permittee of television Station KR11, Channel 11, International Falls, Minnesota, proposing the reallocation of Channel 11 from International Falls to Chisholm, Minnesota, and modification of its authorization accordingly.<sup>1</sup> Petitioner filed supporting comments in response to the Notice. Informal comments were also filed by various individuals.<sup>2</sup>

2. As stated in the Notice, petitioner's proposal, filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, would reallocate Channel 11 from International Falls (pop. 8,325)<sup>3</sup> to Chisholm (pop. 5,290), without affording other parties an opportunity to file competing expressions of interest as the requested allotment is mutually exclusive with the existing authorization at International Falls.<sup>4</sup> See Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O"), 4 FCC Rcd 4870 (1989), recon. granted in part ("Change of Community MO&O"), 5 FCC Rcd 7094 (1990). Additionally, the Notice stated that the proposed reallocation of Channel 11 to Chisholm, evaluated pursuant to the television allotment priorities set forth in the Sixth Report and Order on Television

<sup>1</sup> Commission records do not reflect the existence of a paired DTV Channel for Channel 11 at International Falls.

<sup>2</sup> These comments consist of individual filings by the Hibbing Area Chamber of Commerce, Saint Louis County Commissioner, Balkan Township, the Chisholm Economic Development Authority, and the Koochiching Economic Development Authority. However, those comments were not filed in accordance with the requirements of Section 1.420(a), (c) and (e) of the Commission's Rules, and paragraph 4 of the Appendix to the Notice and will not be considered in this proceeding.

<sup>3</sup> Population figures were taken from the 1990 U.S. Census.

<sup>4</sup> The proposed site to accommodate Channel 11 at Chisholm at coordinates 47-51-39 NL and 92-56-43 WL is located 72.2 kilometers (44.9 miles) from the currently authorized site for Station KR11 at International Falls at coordinates 48-24-09 NL and 93-28-52 WL. The minimum distance separation for co-channel television stations in Zone II is 304.9 kilometers (189.5 miles).

Allocations, 41 FCC 148 (1952),<sup>5</sup> would provide that community with a first local television service (priority two). The reallocation proposal would also provide service to white areas and populations at Chisholm, thereby advancing priority one to provide at least one television service to all parts of the United States; and would provide a choice of at least two television services to all parts of the United States (priority three). Although the reallocation would remove the only potential television service at International Falls, Station KRII is not built and therefore the proposal herein does not represent a loss of service upon which the public has become reliant.

3. As set forth in the Notice, our staff engineering study has determined that the reallocation of Channel 11 to Chisholm will serve a white area of 2,466 sq. km. and 6,060 people, as well as a gray area of 2,882 sq. km. and 9,478 people. It will also provide service to a total U.S. area of 23,320 sq. km. and 123,341 people.<sup>6</sup>

4. We believe the public interest would benefit by reallocating Channel 11 from International Falls to Chisholm, Minnesota, and modifying the authorization for Station KRII, as requested. The reallocation would result in a preferential arrangement of allotments. See Change of Community R&O and Sixth Report and Order, *supra*. Chisholm will be provided with its first local television service, and International Falls will not be devoid of service as Station KRII is not built. The reallocation will also provide a net increase in service to white and gray areas and populations. In light of the above, and in accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will modify the construction permit issued to Channel 11 License, Inc. for Station KRII (File No. BPCT-19960709KR) to specify operation on Channel 11 at Chisholm, Minnesota.

5. Channel 11 can be allotted to Chisholm consistent with the minimum distance separation requirements of Section 73.610(b)(2) of the Commission's Rules with respect to domestic allotments, utilizing the petitioner's specified site at coordinates 47-51-39 NL and 92-56-43 WL. However, as Chisholm is located within 400 kilometers (250 miles) of the U.S.-Canada border, and the allotment of Channel 11 at that community will result in a short-spacing to vacant Channel 12, Lac La Croix, Ontario, Canada, concurrence in the allotment proposal herein by the Canadian

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<sup>5</sup> The television allotment priorities are: (1) provide at least one television service to all parts of the United States; (2) provide each community with at least one television broadcast station; (3) provide a choice of at least two television services to all parts of the United States; (4) provide each community with at least two television broadcast stations; and (5) assign any remaining channels to communities based on population, geographic location, and the number of television services available to the community from stations located in other communities.

<sup>6</sup> By contrast, according to our studies, Channel 11 at International Falls would have served a white area of 2,422 sq. km. containing a population of 448 people, and a gray area of 1,239 sq. km. and 777 people, as well as a total U.S. area of 13,670 sq. km. and 20,302 people.

Government as a specially negotiated allotment was requested but has not been received.<sup>7</sup> Therefore, if a construction permit is granted to KRII to operate on Channel 11 at Chisholm, Minnesota, prior to the receipt of formal concurrence by the Canadian government to the allotment, the construction permit will include the following condition: "Operation with the facilities specified herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1994 U.S.-Canada TV Agreement, or if specifically objected to by Industry Canada."

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective November 19, 2001, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

<u>City</u>	<u>Channel No.</u>
International Falls, Minnesota	--
Chisholm, Minnesota	11

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the authorization of Channel 11 License, Inc. (File No. BPCT-19960709KR) for Station KRII, IS MODIFIED to specify operation on Channel 11 at Chisholm, Minnesota, in lieu of International Falls, Minnesota, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

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<sup>7</sup> Section 3.3.1 of the January 5, 1994 U.S.-Canada TV Agreement ("Canadian NTSC TV Agreement") requires a separation of at least 95 kilometers for adjacent channel VHF highband TV stations in Zone II. In this instance, the distance between the petitioner's specified site and vacant Channel 12 at Lac La Croix at coordinates 48-22-36 NL and 92-09-54 is 82 kilometers.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (3)(m), any party seeking a change in community of license of a television or FM allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Channel 11 License, Inc., permittee of Station KRII, is required to submit a rule making fee in addition to the fee required for the application to effectuate the change in community of license at Chisholm, Minnesota.

9. IT IS FURTHER ORDERED, That the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this Order by Certified Mail, Return Receipt Requested, to Channel 11 License, Inc., c/o Granite Broadcasting Corporation, 767 Third Avenue, 34<sup>th</sup> Floor, New York, New York 10017.

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau